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HUMAN RIGHTS COMMITTEE

Forty-eighth session

SUMMARY RECORD OF THE 1250th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 22 July 1993, at 10 a.m.

Chairman: Mr. ANDO

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of Bulgaria (CCPR/C/32/Add.17 and M/CCPR/93/20*) (continued)

1. Mr. Koulishev, Mr. Dobrev, Mr. Bogoev, Mr. Velinov, Mr. Kolarov and Mr. Anastassov (Bulgaria) took seats at the Committee table.

2. The CHAIRMAN invited the Committee to continue its consideration of Bulgaria's second periodic report (CCPR/C/32/Add.17). The Bulgarian delegation would answer the oral questions of members concerning sections II and III of the list of issues to be taken up in connection with the consideration of the report (M/CCPR/93/20).

3. Mr. KOULISHEV (Bulgaria), answering Mr. Aguilar Urbina's question regarding the compatibility of the provisions of article 152 of the Code of Criminal Procedure with the principle of the presumption of innocence laid down in the Constitution, said that to his mind there was no conflict between the two texts. Article 31, paragraph 3 of the Constitution stipulated that the accused was to be considered innocent until found guilty by a final verdict, whereas article 152 of the Code of Criminal Procedure provided for the detention prior to conviction of a person charged with a crime (report, para. 77). The question of guilt remained to be decided by the courts.

4. It had been asked which crimes carried the death penalty. The crimes in question were few in number and were listed in the Criminal Code. Most of them were grave crimes, such as murder, that resulted in the death of a victim. Crimes against the State were attempts to change the constitutional order or State structure by force or violence. The category also included espionage and sabotage. The possibility of substituting life imprisonment for the death penalty was being considered in connection with the new criminal code. The two proposals before parliament provided for the abolition of the death penalty, but abolition would not be easy as public opinion was still not convinced of its desirability.

5. There seemed to be a misunderstanding regarding the functions of the prosecutor and examining magistrate in connection with orders for detention. The examining magistrate did not take judicial decisions. He assisted the judge and often carried out the prosecutor's instructions. That was the case with detention. The examining magistrate consulted the prosecutor when ordering detention. The examining magistrate and the prosecutor were independent of one another, but worked together in the course of criminal proceedings. There was no direct relationship between the judge and the examining magistrate, except when the judge sent a case back to the examining magistrate for further investigation.

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* English text unnumbered.

6. Commenting on forced labour and correctional labour in prisons, he said that the terminology in paragraphs 64 to 70 of the report seemed to have led to a misunderstanding. There was no forced labour in correctional facilities. Prisoners were free to decide whether they wanted to work or not. As paragraph 70 explained, correctional labour was a penalty imposed on persons convicted of minor offences. Offenders were required to work for a period of three months to one year at their usual place of work at a reduced rate of pay and during that period did not accumulate pension rights.

7. With regard to Mr. Fodor's question whether juvenile courts would be set up in Bulgaria, he said that neither the Constitution nor the legislation concerning judicial machinery provided for their establishment, but that the possibility was being considered. Turning to paragraph 76 of the report and Mr. Fodor's questions concerning measures to prevent the flight of accused persons, he explained that release on oath did not mean that the accused gave a religious oath. He was required to sign a commitment not to leave the jurisdiction.

8. It had been asked why the provisions of article 29 of the Constitution differed from those of article 7 of the Covenant. The difference was, he thought, very small and the text was unambiguous. The Constitution was in fact modelled on the European Convention on Human Rights.

9. With regard to Mrs. Higgins's questions concerning defence arrangements in criminal proceedings, he said that Bulgarian legislation regulating the legal profession dated from 1991. The bar was independent of the State. Lawyers had to be Bulgarian citizens, must not have been convicted of a criminal offence and must have studied law. They had to be admitted to the Law Council and were then listed as lawyers. Until the 1970s, lawyers had not participated in criminal proceedings until after the preliminary investigation. There had been resistance to the introduction of provisions permitting their participation in preliminary investigations but that step had been taken in 1990 with the adoption of an amendment to the Code of Criminal Procedure.

10. In response to Mr. Fodor's comments on the various levels of judicial proceedings, he said that there were at present two levels in Bulgaria, that there would be three levels when the Supreme Court of Cassation was established. It was believed that the change would improve the performance of the system. As Mr. Fodor had mentioned, the number of criminal cases was increasing. Paradoxically, the number of offences was growing while the number of court decisions was declining. The reason for that state of affairs was that the courts and the examining magistrates were hard pressed to deal with cases expeditiously. Efforts were being made to introduce more rational and efficacious procedures. He did not have the data Mr. Fodor requested on the number of persons committed to psychiatric institutions, but said that a conclusive report was required from the prison medical service before a person was committed to a psychiatric institution.

11. The CHAIRMAN invited the Bulgarian delegation to comment on the questions in section IV of the list of issues (M/CCPR/93/20) which read:

"IV. Freedom of movement and expulsion of aliens, right to privacy, freedom of religion and expression and right to participate in the conduct of public affairs (arts. 12, 13, 17, 18, 19, 21, 24 and 25)

(a) Please provide detailed information on the grounds on which issuance of a passport may be refused and clarify how the concept of 'security of the Republic of Bulgaria' is interpreted in that regard (see para. 104 of the report).

(b) Please clarify the restrictions which may be placed on the freedom of movement of foreign nationals within Bulgarian territory (see para. 107 of the report).

(c) Please provide further information concerning the law and practice relating to permissible interference with the right to privacy. Please clarify what measures have been taken to harmonize the Penal Code and the Constitution in that regard (see para. 135 of the report).

(d) Please provide information concerning registration or other procedures relating to the recognition of religious denominations by the authorities.

(e) Is any legislation being considered to regulate the activities of the press and other media (see paras. 151 and 152 of the report)?

(f) Which authority is competent to ban an organization or a political party if it contravenes Constitutional or legal provisions (see art. 44, para. 3, of the Constitution and para. 174 of the report).

(g) Please provide further information on the law and practice relating to the employment of minors.

(h) Are there any categories of persons barred from public service?"

12. Mr. KOULISHEV, referring to point (a), said that the grounds on which a passport could be refused or withdrawn were listed in article 7 of the Passports Act. The list was exhaustive. A passport could be refused or withdrawn if the applicant or holder: (i) was under-age - or a ward, unless the guardian gave written consent to the journey abroad; (ii) was charged with a criminal offence, or was a convicted person and had not served his sentence; (iii) had been ordered to pay maintenance to a person in Bulgaria and had not made arrangements for payment during his stay abroad; (iv) owed a substantial sum to the State or to legal or natural persons; (v) had been convicted of

persistent breaches of the customs or currency regulations; (vi) had been convicted of persistent offences against drug legislation; (vii) had made false statements in applying for a passport (restriction applicable for six months). A passport might also be refused or withdrawn if the journey might threaten national security.

13. Commenting on the reference to grounds of national security, he said he was puzzled by the fears expressed. There were fairly frequent references in the Covenant to grounds of national security, for example in articles 19, 21 and 22, and the provision itself was drawn directly from article 12, paragraph 3 of the Covenant. The national security clause was seldom used. It was chiefly concerned with persons in possession of State secrets and members of the armed forces. It should be noted that refusal was not mandatory in the cases listed. The authorities could exercise discretion. He added that he had tried to find an interpretation of the term "national security" in the Committee's general observations, but had not found one. The Committee might wish to take that point up.

14. Point (b) called for clarification of restrictions that might be placed on the freedom of movement of foreign nationals in Bulgaria (para. 107 of the report). He confirmed the information in the report. Foreign nationals were covered by the same rules as Bulgarian citizens, with the exception that embassy officials wishing to visit border areas had to inform the Ministry for Foreign Affairs. Border areas were divided into two restricted zones in which the same restrictions applied to Bulgarians and foreigners. The first zone, contiguous to the border, was called the "prohibited border zone" and varied in width from 10 to 200 metres. The second, from two to seven kilometres in width, was called the "border zone". The restrictions did not apply to inhabitants of the zones, some of whom might well be foreigners.

15. Point (c) called for further information on the law and practice concerning permissible interference with the right to privacy. It asked also for clarification of the measures taken to harmonize the Penal Code and the Constitution in that regard (see para. 135 of the report). The subject was covered by articles 32, 33 and 34 of the Constitution and other legislation. Except in the cases provided by law, an individual's privacy could not be invaded without his consent. Articles 32 and 33 of the Constitution were cited in the report (paras. 133 and 136). Article 34 of the Constitution protected the freedom and confidentiality of correspondence and other communications. It, too, was cited in the report (para. 138). Those provisions would be developed in the legislation on postal services and telecommunications now under preparation.

16. The draft code of criminal procedure would meet the new standards for the protection of privacy and would prescribe the penalties applicable to persons committing the offences set out in article 33 of the Constitution, bearing in mind the need for technical surveillance of individuals suspected of criminal activities. Legislation under preparation specified the circumstances in which the officials of the competent agencies could film, photograph or record an individual without his or her consent and violate the secrecy of correspondence. To prevent abuses, the law provided that such surveillance could only be undertaken with the approval of the Procurator-General in cases where there was evidence of the commission of a crime.

17. Point (d) asked for information on registration or other procedures involved in official recognition of religious denominations. In that connection, he noted that freedom of religion was enshrined in articles 13 and 37 of the Constitution and that under the law in force religious denominations were registered by the Office for Religious Affairs in accordance with criteria that were not always very clear. The Office had registered approximately 30 religious denominations, but dozens of other religious movements had been recognized under a different legal procedure. The matter would be covered by a new law on religions. In that connection, he said that "sects" were a source of concern to the authorities because some Bulgarians disapproved of them, while others were opposed to any restrictions on freedom of religion. The authorities were worried about the influence of "sects" in view of the reports of children committing suicide in consequence of the teachings of some religious groups.

18. The present law had the disadvantage of permitting the authorities to intervene in religious affairs. Religious denominations not only had to be registered with the Office for Religious Affairs, but their governing bodies also had to be approved by the Office. For that reason the President of the Republic and some members of parliament had referred the issue to the Constitutional Council, requesting an advisory opinion on the constitutionality of some provisions of the law. The Constitutional Council had ruled that the provisions were not in conformity with the Constitution and they had been repealed. The Constitutional Council had also found that the State must not interfere in religious affairs. Unfortunately, a recent intervention by the Bulgarian Government in religious affairs had adversely affected the activities of the Orthodox Church and the Muslim community. His delegation hoped that the new law would provide satisfactory solutions to all of those problems.

19. With regard to possible legislation to regulate the activities of the press and other media (point (e)), he said that the public and the members of the National Assembly had divided views on the subject. The view was held by some that legislation would inevitably restrict freedom. The issue was not currently under discussion, but draft legislation on the press and electronic media had been submitted to the Parliamentary Commission on Television and Radio. Opinion was so sharply divided that it had been decided to consult the Council of Europe experts. The experts would visit Bulgaria in September and would help to draft the legislation.

20. With regard to the issues raised under (f), he said that the conditions which had to be met in order to found a political party and the grounds for banning a party were governed by article 11, paragraph 4, of the Constitution and, in greater detail, by articles 22 to 24 of the Political Parties Act of 1990. Only the Supreme Court could ban a political party, and only upon a proposal by the Procurator-General. The procedure was mandatory. The Court was composed of three judges and the decision could only be taken in the four cases provided for by law, which were set out in paragraph 174 of the report. A number of cases involving authorization of the establishment of a political party had been considered recently. The Constitutional Court had had to rule on the lawfulness of the establishment of the Movement for Rights and Freedoms, a party, which in fact represented the Turkish ethnic minority. It had found in favour, but by the very narrow majority of six votes to five.

New applications for permission to establish parties emanating, for example, from gypsy groups and from a group describing itself as Macedonian had created a problem, and in those cases the Court had decided that registration would not be in conformity with the Constitution. The number of parties already registered was extremely large (over 100).

21. The employment of minors, the subject of point (g), was governed by the Labour Code, a new version of which had been adopted the previous spring. However, the employment of children under 16 had been prohibited by the old Code. Exceptions to that prohibition were allowed in the case of light work not harmful to health or physical and mental development, and children were permitted to perform such work from the age of 15 years. It was also possible for a child under 13 to work as a trainee in a circus and for minors aged 15 to work as film actors. The Minister of Labour and the Minister of Social Affairs and Public Health were responsible for the administration of a law defining the types of work considered not to be harmful to young people under 18 years of age. So long as the State had held a monopoly over employment it had been easy to monitor the implementation of the prohibitions, but today, in a market economy, that was more difficult. It was up to the Government to take more effective measures.

22. While article 48 of the Constitution guaranteed everyone the right to work and freedom to choose his or her profession and place of work, certain professions were subject to conditions specified by law. For example, a judge or a prosecutor had to be a Bulgarian citizen and to have the requisite legal training and professional standing. Like other countries which had broken with the old communist system, Bulgaria was faced with what might be described as a "decommunization" problem, and two or three laws excluding former leaders of the totalitarian regime from certain responsible posts had already been adopted. The President of the Republic had recently lodged an appeal on the grounds of unconstitutionality with the Constitutional Court in which he challenged certain provisions of that type contained in the Banks and Loans Act. The Court had declared the provisions in question to be unconstitutional and would probably rule likewise in the case of several bills currently before the Parliament. If passed, the laws would undoubtedly be challenged at a later stage.

23. Mr. HERNDL thanked the head of the Bulgarian delegation for his very detailed information. He noted that in the matter of religious freedom the Constitution was very progressive in that it provided for conscientious objection to military service. However, as the Constitution stated that conditions for exemption would be laid down by law, he wondered whether the criteria and conditions had already been legally approved.

24. Article 3 of the Political Parties Act listing the grounds for banning a party was very strict. As the Constitutional Court had already given an interpretation of that provision in a specific case, the question arose whether it would not be in the interest of Bulgaria to amend the Act so as to provide a better definition of the grounds in conformity with the Court's decision. Similarly, article 14 of the Act applied very extensive criteria in restricting the possibility for citizens to join a political party. True, the Covenant did authorize some restrictions, but Bulgarian law denied the right to join a political party to all men called up for military service and to all

persons in positions of judicial authority. That restriction might be thought excessive. So far as the financing of political parties was concerned, the same Act placed severe limitations - for no clearly apparent reason - upon the possibility of receiving financial support. It was in the interest of every country to have free parties entitled to receive contributions from private sources.

25. Mrs. EVATT pointed out that article 37, paragraph 2 of the Constitution set a general limit upon the practice of a religion, whereas the limitations authorized by the Covenant had to be prescribed by law and could only be based on the grounds listed in article 18 of the Covenant. To prescribe as a constitutional rule that religious freedom could not be directed against national security, public order, public health or morals or the rights and freedoms of other citizens was not specific enough for the persons concerned to understand clearly what was meant. She wished to know whether thought was being given to clarifying the provision. Paragraph 4 of article 13 of the Constitution according to which religious institutions and communities, and religious beliefs, were not to be used to political ends was also extremely vague and its real implications in terms of the freedom to practice a religion were not made clear.

26. As regards political parties, the restriction set forth in paragraph 4 of article 11 of the Constitution could entail a risk of denial of the right to take part directly in political affairs to small groups, for example, gypsies.

27. Article 41 of the Constitution appeared to guarantee freedom of information and access of persons directly affected to personal files concerning them, which would be in conformity with article 19 of the Covenant. However, there was nothing in the periodic report of Bulgaria to indicate whether the affirmation of that right was in fact backed by specific procedures for implementation or what was the precise nature of the information which everyone was entitled to seek, obtain and disseminate. Did the statement in paragraph 139 of the report that the secrecy of adoption was protected mean that an adopted child could not exercise the right to seek information about his or her origins?

28. Mr. PRADO VALLEJO said that he had listened with interest to the very clear and precise replies of the Bulgarian delegation. However, he still had a question in connection with the grounds for expulsion of foreigners (para. 109 of the report), which included the case of "a foreign national who has slandered the Republic of Bulgaria or has acted against the prestige and dignity of the Bulgarian people". Such concepts were extremely broad and imprecise, and could result in arbitrary decisions.

29. In paragraph 148 of the report it was stated that the freedom of conscience and religion could not be directed against national security. He found it difficult to see how believing in a god could be directed against national security or public order.

30. In view of the fact that television was being privatized, he wished to know whether private individuals had access to television channels in order to be able to address their fellow citizens, and, if so, what were the procedures for the exercise of that access. Still on the subject of freedom of

expression, he noted that according to paragraph 159, a ban on a public gathering by a municipal council could be appealed to the executive council of the same municipal council - an arrangement that hardly seemed to guarantee the right to peaceful assembly. In order to judge the efficacy of such an appeal it would be necessary to know exactly what the executive council of the municipal council was and what powers it had.

31. Mr. SADI welcomed the explanations given by the Bulgarian delegation, in particular on the subject of freedom of movement. He wondered whether in Bulgaria, as in some countries, a charge was levied on leaving the territory and, if so, what was the amount of the charge. Establishing a prohibitive rate for the charge would be tantamount to limiting freedom of movement. Two of the grounds given for refusal of a passport in paragraph 104 of the report were alarming: the first was the existence of a potential threat to the security of the Republic and the other was the fact of owing considerable amounts of money to the State or to legal or natural persons. The first ground, probably a legacy from the past, could in his view be eliminated; the second could entail unforeseen consequences because Bulgaria was moving towards a market economy and all citizens were liable to owe money to some entity some day. Furthermore, it was not specified whether a refusal to issue a passport could be appealed. The restriction on travelling to certain parts of the country was also a leftover from the former regime and would, he imagined, be eliminated.

32. Two of the grounds on which the establishment of a political party could be banned were extremely vague and too broad; for example, it ought to be specified how the party's activities could be directed against "the rights and freedoms of citizens" and how "the objectives of the party" could "violate the Constitution and the laws" (para. 174 (a) and (b) of the periodic report). The scope of those two criteria should be restricted.

33. Mr. FODOR inquired to what extent the restriction on the issuance of a passport was applied in practice. With regard to the freedom of movement of foreigners, paragraph 107 of the report (CCPR/C/32/Add.17) mentioned two restrictions which seemed to be traces of the totalitarian past. Having himself suffered under similar restrictions some years previously, he welcomed the information that they were being applied less strictly today than previously, but would like to see them abolished entirely.

34. As regards freedom of assembly, he associated himself with the concerns expressed by Mr. Prado Vallejo. It would seem more appropriate to allow an appeal to be made to the courts rather than to the executive council of the municipal council (see para. 159 of the report). He wondered whether the authorities were envisaging taking steps in that direction.

35. Further, he inquired whether the prohibition on entering into marriage set out in paragraph 184 of the report (CCPR/C/32/Add.17) had legal force or was a simple recommendation. What were the consequences of failure to comply with the prohibition? Was that considered to be an offence?

36. Mr. BRUNI CELLI said that he wished to make a general comment on the subject of freedom of expression. One of the great contemporary problems was how to ensure effectively the exercise of the right to freedom of information, how to regulate that freedom and, possibly, how to limit it. There was a tendency in some quarters to avoid discussion of possible restrictions of freedom of expression and the persistence of some prejudices in that connection had to be recognized. Under article 19, paragraph 3 of the Covenant, freedom of expression could be subject to certain restrictions, which had to be expressly provided by law. In his view, the three articles of the Bulgarian Constitution devoted to freedom of expression were too general in nature. The matter was an important one and required in-depth analysis. It was necessary to safeguard freedom of expression while at the same time protecting the reputation of others and the dignity of the individual. Moreover, everyone was aware that the media today possessed extraordinary powers and could cause serious harm. In France, for example, after the suicide of a former Prime Minister some commentators had gone so far as to speak of an "electronic guillotine". Another important aspect of freedom of expression was the people's right to receive reliable information. Generally speaking, States were expected to legislate in such a way as to ensure the exercise of freedoms and, at the same time, to prevent a right from becoming a weapon used for political or economic ends. A delicate balance had to be struck between the principle of freedom of expression, on the one hand, and legitimate limitations and restrictions on that freedom, on the other. In that connection he expressed the hope that the new press regulations in Bulgaria would be fully in conformity with the provisions of the Covenant.

37. Mrs. HIGGINS associated herself with Mr. Prado Vallejo's remarks concerning article 18 of the Covenant and the criteria authorizing certain restrictions on the freedom to practise one's religion. She noted that national security did not appear among the criteria listed in that provision of the Covenant.

38. With regard to political parties, her own country, the United Kingdom, unlike many others did not impose any registration formalities on political parties. Freedom of association, like freedom of speech, was fully guaranteed provided that the parties used persuasion, not violence, to achieve their ends. But the experience of other countries in that respect was very different and she realized that, for some, the danger of disintegration as a result of ethnic conflict was very real. She understood the Bulgarian authorities' concern about the formation of parties on an ethnic basis. She likewise understood the concern to which certain methods of financing parties could give rise. The Committee would, however, certainly deal with all those matters in the context of its future general observation concerning article 25 of the Covenant.

39. With regard to article 12 of the Covenant, she had been very pleased to learn that the Bulgarian authorities - unlike some of their counterparts in eastern European countries, incidentally - had abandoned the language and habits of the past. Protection of national security could, of course, be grounds for restricting freedom of movement under the Covenant. The

possession of State secrets, however, could not be invoked in that regard. Many laws in eastern European countries still provided that that was grounds for the restriction of freedom of movement and it would be advisable to abolish such grounds. The mere fact of being in possession of a State secret was not in itself a threat to national security.

40. She had also been surprised to learn that the authorization for measures restricting the rights set out in article 17 of the Covenant was issued by the Procurator-General. Such authorization should rather be the responsibility of an independent tribunal, since that would provide a better guarantee against abuse. The general observation of the Committee concerning article 17 of the Covenant might be of benefit to the Bulgarian authorities in that regard.

41. She understood that the Constitution drew a distinction between the lawful activities of trade unions and acts they might carry out in the political field. The dividing line between the two categories was extremely difficult to draw. Very often, the trade unions contended that they were protecting their members' interests, which brought them into opposition with government policy. In such cases, the government's response was that, in so acting, the trade unions were interfering in the political life of the country. At all events, it was a matter of great concern to her that the Bulgarian authorities could disband a trade union on such grounds.

42. Mr. EL SHAFEI said it was his understanding that the prohibition on gathering information of a personal nature about others could be based on criteria other than those set forth in paragraph 134 of the report (CCPR/C/32/Add.17). Was that correct and, if so, what did it involve? Should it also be taken to mean that a census carried out in the light of data based on the criteria set forth in paragraph 134 would be banned in Bulgaria?

43. Mr. NDIAYE said that he would first like to have details of the financing of political parties. Could they be financed from external sources and did the authorities monitor the source of their financing? He would also like to know why the merging of two parties and the splitting of one party were grounds for dissolution. In addition, he noted that the minimum age for getting married was 18 years, which was very high. In fact, it coincided with the age of majority, in which regard Bulgarian law was rather unusual. Furthermore, paragraph 187 of the report (CCPR/C/32/Add.17) stated that the mother (or father) was entitled to extra paid maternity leave until the child was two years old. That was a particularly long period, and he wondered whether there was not a mistake in the report.

44. Mr. KOULISHEV (Bulgaria), replying to Mr. Herndl's question on article 18 of the Covenant, said that there was a 1949 law, but it was obsolete and no longer reflected developments in the country. One of Parliament's pressing tasks would be to draft a new law on the subject.

45. With regard to the implementation of article 25 of the Covenant and, more specifically, article 3 of the Political Parties Act, it must remembered that the Act had been drafted just after the downfall of the totalitarian regime during the "round table" era. It therefore reflected Bulgaria's position at that time. So far as the ban on parties on ethnic grounds was concerned,

there again, the provision had to be read against the national background. All the national political forces reacted very strongly to anything that smacked of separatist trends. As a general rule, States had a difficult problem when a minority maintained a national or other link with a powerful State situated on their borders. In that context, public opinion and all the Bulgarian political forces were very concerned with religious and ethnic issues. While he appreciated the Committee's concern on that score, he would point out that article 3 of the Political Parties Act was interpreted very liberally. None the less, the competent authorities would probably review the content of the Act in the near future with a view to clarifying the issue of the religious or ethnic basis of parties.

46. So far as membership of a political party and the depoliticization of certain government organs were concerned, once again the measures taken could be explained by reference to the times of which they belonged. It had been necessary to break the links between the administration and the Communist Party. The list of institutions affected by that depoliticization was definitely a bit too long but the restrictions which applied to the Ministries of the Interior and of Defence none the less seemed to have unanimous support in Bulgaria.

47. As to the financing of political parties, at the time when the Act had been adopted there had been a large body of opinion in favour of the ban on external subsidies.

48. In answer to Mrs. Evatt's question on the provisions of article 37 of the Constitution concerning religious freedom, he recognized that it was necessary to amend the law in that regard, and a new act was in fact under consideration.

49. With regard to Mr. Bruni Celli's concerns regarding freedom of information, there were several draft laws on the subject but it was not a priority matter for Parliament. None the less, he fully agreed that, as a general rule, legislative measures relating to the media ran into one major difficulty, namely, the need to protect both freedom of speech and the reputation and honour of citizens. There was still no law on freedom to seek out information. On another point, secrecy of adoption (para. 139 of the report) was protected by the Criminal Code, which was a sensible measure given the adverse consequences disclosure of such a secret could have on family life and on the social position of the person concerned.

50. The protection provided for under article 18, paragraph 2, of the Covenant (freedom to have or to adopt a religion or belief), was now guaranteed under the Constitution and under Bulgarian law.

51. Television was still State-owned but the possibility of authorizing private television channels was currently under discussion. There were already some 10 private radio stations. The question of the television air time to be allowed individuals was difficult to resolve. During elections, however, air time was made available to political parties and was allocated among all the groups fielding candidates. The system had operated

satisfactorily thus far. As to the possibility of appealing against decisions restricting the right of assembly, meetings held inside premises were not subject to authorization, unlike those held in the street, for which the local council had to give its agreement. There was no appeal to the courts against refusals.

52. In answer to Mr. Sadi's questions, he said that a passport cost 20 dollars, which was not excessive. No tax for leaving the country was levied. In the event of refusal to issue a passport, the person concerned could appeal to the courts against the decision. Mr. Fodor had raised some very pertinent questions on the extent to which the law in that area was actually applied. Admittedly, the laws contained provisions that were broad in scope but they were hardly ever applied in practice. In any event, he had not heard of any refusal to issue a passport for two or three years. Furthermore, none of the non-governmental organizations which followed the human rights question in Bulgaria very closely had reported any violations of the Covenant in that connection. He also wished to correct what he had said earlier about State secrets. Possession of a State secret had not been grounds for refusing a passport for some time.

53. With regard to freedom of movement of foreigners, apart from the narrow strip of territory which was monitored by border guards and where foreigners and Bulgarian nationals were subject to the same restrictions, no areas were prohibited to foreigners.

54. In answer to a question by Mr. Fodor regarding certain cases of a ban on entering marriage, he explained that the provision in question did not cover all diseases. As for penalties for a breach of the ban, the authorities took account chiefly of whether or not the person who was ill had concealed his illness from his future spouse.

55. In answer to a question by Mr. Fodor, he explained that foreigners who visited Bulgaria only had to register with the authorities if they intended to reside in the country for more than a month. With regard to Mrs. Higgins' question concerning possible problems caused by trade-union activities, in practice, the only difficulty that had arisen had been due to the Government's suspicions that certain strikes had been organized for political purposes. No complaint had been laid before the courts, however, and there had been no prejudicial consequences for the maintenance of law and order. As for Mr. Ndiaye's question, the decision to disband a political party could be taken only on the initiative of the party concerned. The Government certainly did not intervene in that regard.

56. The CHAIRMAN, thanking Mr. Koulishev for his replies, invited the members of the Committee to make their individual final observations, on the understanding that observations reflecting the views of the Committee as a whole would be submitted to the Government later.

57. Mr. HERNDL said that he was gratified by the high quality of the dialogue with the Bulgarian delegation at a time of far-reaching changes in the State party's national legal system. He trusted that the competent Bulgarian authorities would take account of the exchanges of views that had taken place with a view to ensuring that the new legislation to be introduced would be

fully compatible with the provisions of the Covenant. In particular, he hoped that due account would be taken of the provisions of article 27 of the Covenant concerning minorities. Minorities should be regarded not as a national danger but rather as an element that could enrich society.

58. Mr. PRADO VALLEJO expressed his complete satisfaction at the extremely positive dialogue that had taken place with the Bulgarian delegation and at the answers that had been given to the questions put by members of the Committee. Substantial progress had been achieved in Bulgaria in bringing the provisions of national law into line with those of the Covenant, and praiseworthy efforts had been made, having regard to the situation which was a legacy of the previous regime. Mr. Koulishev had undoubtedly played a major role in his country in advancing the cause of human rights, and he thanked him warmly for cooperating with the Committee.

59. Mr. FODOR said that the high hopes he had had for the dialogue with the Bulgarian delegation had not been disappointed. He trusted that the constructive conclusions and recommendations resulting from the exchange of views would be duly brought to the attention of the competent Bulgarian authorities. In that connection, the radical changes that had occurred in Bulgaria since 1989 could have had some adverse secondary effects on the implementation of some of the provisions of the Covenant. For example, the treatment of minorities had admittedly undergone radical changes. It should nevertheless be noted that, under article 27 of the Covenant, minorities should not merely enjoy an economic and political status equivalent to that of other Bulgarian citizens but should also benefit from special measures of protection. The defects of the past could not, however, be remedied from one day to the next and the main thing was that the Bulgarian people had clearly demonstrated their determination to embark on the path to democracy.

60. Mr. EL SHAFEI said that he was gratified at the constructive examination of the second periodic report of Bulgaria (CCPR/C/32/Add.17). While the report had been prepared in accordance with the Committee's guidelines, it dealt solely with the period following the major changes of 1989 and did not deal at all with the period following the submission of the initial report of Bulgaria in 1978. The Government currently in power could not, of course, be held responsible for acts committed by the previous regime but the fact remained that, in the circumstances, the Committee had been unable to carry out its responsibilities properly with respect to the examination of the reports of Bulgaria. It sufficed in that connection to refer to paragraph 212 of the second periodic report (CCPR/C/32/Add.17) concerning the situation of the Turkish minority. The Committee had no details about that minority. At all events, the main thing was that Bulgaria now had a new Constitution setting forth most of the rights laid down in the Universal Declaration and in the Covenant, that it had ratified the first Optional Protocol to the Covenant, and that it had agreed to recognize the competence of the Committee for the Elimination of Racial Discrimination and of the Committee against Torture in connection with the consideration of communications submitted by individuals. Furthermore, new laws had been adopted with a view to redressing, where possible, the harm caused to citizens under the former totalitarian regime. Great progress towards respect for human rights had therefore been made. More robust measures should, however, be taken to eliminate discrimination against ethnic and religious minorities and to

encourage tolerance. In that connection, a comprehensive programme for teaching human rights should be introduced and provision should be made for penalties to be imposed on persons, and in particular civil servants, who abused their powers.

61. Mrs. HIGGINS, thanking the Bulgarian delegation for having engaged in an extremely fruitful dialogue with the Committee, said she noted with great satisfaction that the new Constitution reproduced the provisions of the Covenant extensively, that the Constitutional Council had already played an extremely useful role, and that Bulgaria had ratified the first Optional Protocol to the Covenant. She would simply urge the Bulgarian authorities to ensure that the provisions of article 9 of the Covenant, in particular with regard to the grounds for and duration of detention, should be fully respected and that every step should be taken to eliminate discrimination, particularly against minorities.

62. Mr. SADI said that he welcomed the constructive dialogue that had taken place with the Bulgarian delegation, and which had been greatly facilitated by the presence of Mr. Koulishev. He trusted that the Bulgarian authorities would take fully into consideration the observations the Committee would make at the conclusion of the examination of the second periodic report of Bulgaria.

63. Mr. WENNERGREN said he too noted with satisfaction that great progress towards respect for human rights had been made in Bulgaria. There was no doubt that improvements in the organization of the judicial system could still be made. In particular, steps should be taken to ensure that there was an improvement in the application of article 9 of the Covenant. On the whole, however, it seemed that Bulgaria had embarked along the right path and it was to be hoped that the efforts already undertaken would soon be crowned with success.

64. Mr. DIMITRIJEVIC said that, as in many countries in transition, there remained significant defects even in Bulgaria's legislation, but the Bulgarian people and Government had demonstrated their determination to eliminate the obstacles that stood in the way of the full realization of human rights throughout the country. In that connection, the Bulgarian authorities could profit from the general observations of the Committee, particularly concerning freedom of religion, and could take the appropriate measures in that regard. He thanked the Bulgarian delegation for the excellent dialogue it had had with the Committee.

65. The CHAIRMAN thanked the Bulgarian delegation warmly for the very frank dialogue it had had with the Committee. He was particularly grateful to Mr. Koulishev for his valuable contribution. He trusted that the exchange of views which had taken place would be of benefit to the Government and would make for the improved implementation of the Covenant in Bulgaria.

66. Mr. KOULISHEV thanked the Chairman and members of the Committee for the warm welcome his delegation had received. He would not fail to inform the Government of the results of the fruitful dialogue that had taken place and he

had no doubt that the final observations of the Committee would be duly taken into account in the interests of the fuller realization of human rights in Bulgaria.

67. The CHAIRMAN announced that the Committee had completed its consideration of the second periodic report of Bulgaria. The Committee would inform the Bulgarian Government later of the date of submission of the third periodic report of Bulgaria which had originally been planned for 28 April 1989.

68. Mr. Koulishev, Mr. Dobrev, Mr. Bogoev, Mr. Velinov, Mr. Kolarov and Mr. Anstassov (Bulgaria) withdrew.

The meeting rose at 1.05 p.m.